



MURIEL BOWSER
MAYOR

January 26, 2021

The Honorable Phil Mendelson, Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Today, I am transmitting to the Council of the District of Columbia (Council) for its consideration and approval the *Reopen Washington DC Alcoholic Beverage Regulation Amendment Act of 2021* (Reopen Washington DC Amendment Act). The *Reopen Washington DC Amendment Act* would make numerous technical and substantive amendments to Title 25 of the D.C. Official Code. Please find enclosed a copy of the proposed bill and the accompanying proposed resolution.

The proposed bill makes certain statutory changes that were enacted by the Council on an emergency basis in response to the COVID-19 pandemic permanent, including:

1. Allowing licensed establishments to sell, serve, and deliver alcoholic beverages from another location (e.g., "pop up establishments");
2. Allowing applicants for solicitor and ABC Manager licenses to self-certify the applications;
3. Recognizing electronic signatures and e-notarized applications;
4. Authorizing the ABC Board to provide notice to Advisory Neighborhood Commissions by electronic mail; and
5. Allowing on-premises retailer licenses, class C or D, manufacturer licenses, class A or B, or Convention Center food and establishment businesses to sell, serve, or allow the consumption alcoholic beverages on new or expanded ground level or street level outdoor public or private space.

The *Reopen Washington DC Amendment Act* would also:

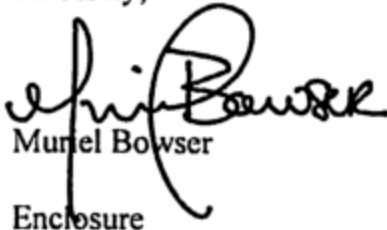
1. Allow for the carryout of previously opened bottles or other containers of spirits;
2. Prohibit caterers from operating on public streets in conjunction with a street closure;
3. Expand the extended hours program;

4. Allow third-party deliveries of alcoholic beverages;
5. Allow licensees that qualify as a full-service grocery store to also hold a tavern license;
6. Allow 25% grocery stores, class A, to operate in Wards 7 and 8, and to allow 25% grocery stores to sell miniatures in Wards 7 and 8;
7. Establish requirements for management agreements;
8. Create a new commercial lifestyle center license; and
9. Create a new section which combines the requirements for security plans and security cameras.

The proposed bill would also make administrative and technical amendments to Title 25 of the D.C. Official Code.

For these reasons discussed above, I urge the Council to take prompt and favorable action on the enclosed proposed bill.

Sincerely,


Muriel Bowser
Enclosure


Chairman Phil Mendelson

at the request of the Mayor

A BILL

IN THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to make amendments to the law regulating the sale, transportation and consumption of alcoholic beverages including amending the definition of spirits to change the alcohol by volume percentage from 15% to 21%; to amend the definition of entertainment to include trivia nights with microphones; to add the terms and definitions for alcohol training and education certification provider, closed container, commercial lifestyle center license, curbside delivery, management agreement and prepared food; to repeal the definition for cooperative agreement; to allow on-premises retailer licenses, class C or D, to register with the Board to sell alcoholic beverages for off-premises consumption at up to 2 additional locations; to allow on-premises retailer licenses, class C or D, manufacturer's license, class A, B, or C, or Convention Center food and alcohol businesses to register with the Board to sell, serve, or allow the consumption of alcoholic beverages on new or expanded ground level or street level outdoor public or private space each year in 2021, 2022 and 2023; to allow restaurants and hotels to permit patrons to remove partially consumed bottles or other containers of spirits from the premises; to allow caterers to purchase alcoholic beverages from a wholesaler for a catered event of any size; to create a commercial lifestyle center license; to change the permitted hours of operation of sidewalk cafés and summer gardens for manufacturers, class A, B, or C, holding an on-site sales and consumption permit to between the hours of 6 a.m. and 1 a.m.; to change the hours of entertainment for manufacturer licenses, class A, B, or C, holding an on-site sales and consumption permit to between 6 a.m. and 1 a.m.; to replace the term "beer pub endorsement" with "brew pub endorsement" wherever it appears; to make technical changes to existing tasting sample limits; to allow manufacturer and wholesaler licenses and private collectors to offer tastings between the hours of 6 a.m. and 1 a.m.; to allow holders of a distillery pub permit to sell distilled spirits for off-premises consumption between the hours of 6 a.m. and 1 a.m.; to create a third-party alcohol delivery license; to clarify the fee for FOIA requests; to require document requests to be submitted to ABRA's FOIA Officer; to allow the holder of an on-premises retailer's license, class CR, DR, CT or DT, to hold an interest in no more than one off-premises retailer's license, class A, B, AI, or BI; to prohibit an on-premises retailer's license, off-premises retailer's license, or manufacturer's license from holding an interest in a third-party alcohol delivery

1 license; to allow class B retailer full-service grocery stores to hold an interest in a
2 tavern license; to create a 25% grocery store class A retailer's license for eligible
3 applicants applying for a location to operate a newly constructed grocery store in
4 Wards 7 and 8; to allow a 25% grocery store off-premises retailer's license class
5 A or a class B retailer full service grocery store to sell individual containers of 70
6 ounces or less of beer, malt liquor, or ale in Wards 7 and 8; to prohibit nightclubs
7 in the Georgetown Historic District but allow new taverns; to allow nightclub
8 licensees which permit nude dancing previously located in Buzzard Point to move
9 to a new location within 24 months; to allow an applicant for an ABC Manager's
10 or solicitor's license to self-certify the license application; to allow for electronic
11 signatures and electronic signed copies; to require ABC licensed establishments
12 with security cameras to ensure that they are operational and able to record and to
13 turn over their recordings to ABRA or MPD within 48 hours of a request; to
14 require a mandatory training for new ABC licensees; to allow ABC licensees to
15 self-certify applications; to remove the requirement that applicants must resubmit
16 their security plans when renewing their ABC license; to clarify how the Board
17 will give notice of unilateral petitions to terminate or amend settlement
18 agreements; to allow for electronic service to Advisory Neighborhood
19 Commissions; to require notice be given to the public for manufacturers whose
20 hours of sale, service or hours of operation end after 1 a.m.; to clarify the
21 requirements for requesting a subpoena from the Board; to establish commercial
22 lifestyle center license fees, sports wagering endorsement fees and third-party
23 delivery license fees; to require employees and agents to carry their identification
24 while working and to clarify that ABRA investigators may request an employee's
25 identification while they are on duty including while delivering alcoholic
26 beverages; to allow wholesalers to sell and deliver alcoholic beverages between 5
27 a.m. and 1 a.m.; to establish requirements for management agreements; to remove
28 obsolete cross-references; to correct the name for on-premises retailer license
29 holders; to clarify that the term consume means allow the consumption of
30 alcoholic beverages; to allow manufacturer licenses to offer curbside delivery of
31 alcoholic beverages between the hours of 6 a.m. and 1 a.m.; to replace the term
32 voluntary agreement with settlement agreement wherever it appears; to allow
33 retailer licensees and manufacturer's licensees that hold an on-site sales and
34 consumption permit to open to the public at 6 a.m.; to establish the hours of
35 operation, service, and consumption for holders of a new commercial lifestyle
36 center license; to allow the holders of retailer, wholesaler and manufacturer
37 licenses with an on-site sales and consumption permit to offer curbside delivery of
38 alcoholic beverages; to repeal the requirement that wholesalers and manufacturers
39 file monthly reports with the Board; to allow off-premises retailer's licenses, class
40 A, to sell fewer than 6 miniatures of spirits and wine when in gift baskets or other
41 promotional packaging; to clarify that false or misleading statements are not
42 allowed in advertisements; to allow licensees to register with ABRA to operate
43 one or more outdoor common seating areas to be utilized by patrons purchasing
44 food and alcoholic beverages for carry-out; to clarify that stayed suspension days
45 activate whenever the licensee commits another primary tier violation within one
46 year; to repeal the prohibition against persons of notoriously intemperate habits;

1 to create an affirmative defense for licensees that are shown and inspect fake
2 identifications presented by minors that are of such quality that a reasonable
3 person would believe that they were authentic; to exempt nightclub licensees
4 which permit nude dancing from the safekeeping fee requirement provided annual
5 licensing and renewal fees are paid; to consolidate and clarify the requirements
6 for security plans and security cameras; to allow the Board to suspend or revoke
7 an ABC license if the licensee or employee assaults an ABRA investigator or
8 member of MPD; to clarify what constitutes interference with an ABRA or MPD
9 investigation; and to require that proposed amendments to the civil penalty
10 schedule undergo a 90-day Council review.

11
12 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
13 That this act may be cited as the "Reopen Washington DC Alcoholic Beverage
14 Regulation Amendment Act of 2021".

15
16 Sec. 2. Title 25 of the District of Columbia Official Code is amended as follows:

17
18 (a) Chapter 1 is amended as follows:

19
20 (1) The table of contents for Subchapter II is amended by adding a new
21 section designation to read as follows:

22 "§ 25-130. Third-party Alcohol Delivery License."

23 (2) Section 25-101 is amended as follows:

24 (A) A new paragraph (5A) is added to read as follows:

25 "(5A) "Alcohol training and education certification provider" means any
26 person or entity approved by the Board to conduct an alcohol training and education
27 certification program as set forth in § 25-121."

28 (B) A new paragraph (14A) is added to read as follows:

29 "(14A) "Closed container" means a container with a tamper-evident seal or
30 lid, including a seal or lid that will indicate whether the closure has been interfered with
31 or removed, designed to prevent consumption without the removal of the seal or lid."

32 (C) Paragraph (15A) is repealed.

33 (D) A new paragraph (15B) is added to read as follows:

1 “(15B) “Commercial lifestyle center license” means a mixed use commercial
2 development having a combination of retail, residential, dining, entertainment, office, or
3 hotel establishments located in a physically integrated outdoor setting that is pedestrian
4 friendly and that is governed by a commercial owners’ association responsible for the
5 management, maintenance, and operation of the common areas thereof.”.

6 (E) A new paragraph (17A) is added to read as follows:

7 “(17A) “Curbside delivery” means deliveries made at a clearly designated
8 location that is adjacent to the licensed premises of the off-premises retailer, on-premises
9 retailer, or manufacturer holding an on-site sales and consumption permit, including the
10 parking lot or within 200 feet of the licensed premises.”.

11 (F) Paragraph (21A) is amended by striking the phrase “and disc jockeys”
12 and inserting the phrase “disc jockeys, and trivia nights where microphones are used” in
13 its place.

14 (G) New Paragraphs (31A) and (38B) are added to read as follows:

15 “(31A) “Management agreement” means an operational agreement between
16 the licensee and a third-party governing the necessary managerial functions of the
17 establishment for a fee.

18 “(38B) “Prepared food” means food that is prepared or cooked on-premises
19 and which does not require further preparation for dine-in, carry-out, or delivery.”

20 (H) Paragraph (49)(B) is amended by striking the phrase “more than 15%
21 alcohol” and inserting the phrase “more than 21% alcohol” in its place.

22 (3) Section 25-112 is amended by adding a new subsection (h) to read as follows:

1 (h) An applicant for a grocery store that is newly constructed with a certificate of
2 occupancy issued after January 1, 2021 that meets the requirements of § 25-333(f) shall
3 be permitted to apply for one 25% grocery store class A retailer's license in either Ward 7
4 or Ward 8. After 6 months of operation in either Ward 7 or Ward 8, the holder of a 25%
5 grocery store class A retailer's license shall be permitted to apply for one additional 25%
6 grocery store class A retailer's license for a grocery store that is newly constructed with a
7 certificate of occupancy issued after January 1, 2021 that meets the requirements of § 25-
8 333(f) at a location in Wards 1 through 6.

9 (4) Section 25-113 is amended as follows:

10 (A) Subsection (a) is amended as follows:

11 (i) Paragraph (3) is amended by adding a new subparagraph (D) to
12 read as follows:

13 “(D)(i) An on-premises retailer's license, class C/R, D/R, C/T, D/T, C/H,
14 D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, that is
15 registered with the Board under subparagraph (C) of this paragraph may also register
16 with the Board to sell beer, wine, or spirits in closed containers accompanied by one or
17 more prepared food items for off-premises consumption from up to two (2) additional
18 locations other than the licensed premises. Board approval shall not be required for the
19 additional registration under this subsection; provided, that:

20 “(I) The licensee separately registers with the Board, pays a
21 fee of \$100, and receives written authorization from ABRA prior to offering alcoholic
22 beverages for carryout or delivery at the additional location(s);

1 “(II) The licensee, the additional location’s owner, or a
2 prior tenant at the additional location possesses a valid certificate of occupancy for the
3 building used as the additional location, unless the additional location is located on
4 outdoor private space;

5 “(III) The licensee has been legally authorized by the
6 owner of the building or the property utilized as the additional location to utilize the
7 space for carryout or delivery;

8 “(IV) The licensee agrees to follow all applicable DCRA
9 and DC Health laws and regulations; and

10 “(V) The additional location from which the licensee
11 intends to offer alcoholic beverages for carryout or delivery is located in a commercial or
12 mixed-use zone as defined in the District’s zoning regulations.

13 “(ii) The on-premises retailer licensee shall not offer, beer, wine,
14 or spirits for carryout and delivery on public space; except, that an additional location
15 under this subparagraph may include a sidewalk café that has been issued a public space
16 permit by DDOT.

17 “(iii) The on-premises retailer licensee who has registered to sell
18 beer, wine, or spirits for carryout or delivery in accordance with this subparagraph shall
19 do so only at the additional location(s).

20 “(iv) An on-premises retailer licensee who has registered to sell
21 beer, wine, or spirits for carryout or delivery in accordance with this subparagraph may
22 do so for no more than 60 calendar days. The Board may approve a written request from
23 an on-premises licensee to extend carryout or delivery alcohol sales from an additional

1 location pursuant to this subparagraph for one additional 30 calendar day period. A
2 licensee shall not sell beer, wine, or spirits for carryout or delivery for off-premises
3 consumption from the additional location for more than 90 calendar days unless a
4 completed application to do so has been filed with the Board with notice provided to the
5 public in accordance with § 25-421.

6 “(v) The on-premises retailer licensee registered to sell alcoholic
7 beverages for carryout or delivery from an additional location in accordance with this
8 subparagraph is authorized only between the hours of 6:00 a.m. and 1:00 a.m., 7 days a
9 week.

10 “(vi) The Board may fine, suspend, cancel, or revoke an on-
11 premises retailer’s license, and shall revoke its registration to sell beer, wine, or spirits for
12 carryout and delivery at the additional location if the licensee fails to comply with
13 subparagraphs (i)-(v) of this subparagraph.”.

14 “(vii) This subparagraph shall expire on December 31, 2022.”

15 (ii) A new paragraph (6) is added to read as follows:

16 “(6)(A) An on-premises retailer’s license, class C/R, D/R, C/T, D/T, C/H,
17 D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, or a
18 manufacturer’s license, class A, B, or C, with an on-site sales and consumption permit, or
19 a Convention Center food and alcohol business may register with the Board in 2021,
20 2022 and 2023 to sell, serve, and permit the consumption of beer, wine, and spirits on
21 new or expanded temporary ground floor or street level outdoor public or private space
22 not listed on its existing license for the entire twelve-month period of 2021 and in 2022

1 and 2023 for the period of May 1 through October 25. Board approval shall not be
2 required to register; provided that the licensee:

3 “(i) Registers with the Board, in 2022 and 2023 pays a \$100 fee,
4 and receives written authorization from ABRA prior to selling, serving, or permitting the
5 consumption of alcoholic beverages on the proposed outdoor public or private space;

6 “(ii) Registers with DDOT prior to operating on any proposed
7 outdoor public space or receives written approval from the property owner prior to
8 utilizing any proposed outdoor private space; and

9 “(iii) Agrees to follow all applicable Mayor’s Orders and DCRA,
10 DC Health, DDOT and ABRA regulations and administrative issuances.

11 “(B) An on-premises retailer’s license, class C or D, or a manufacturer’s
12 license, class A, B or C, with an on-site sales and consumption permit or a Convention
13 Center food and alcohol business that has registered with the Board to sell, serve, and
14 permit the consumption of beer, wine, and spirits to seated patrons on outdoor public or
15 private space not listed on its license in accordance with subparagraph (A) of this
16 paragraph shall:

17 “(i) Ensure that all outdoor dining customers are seated, place
18 orders and are served food or alcoholic beverages at tables;

19 “(ii) Prohibit events and activities that would require patrons to
20 cluster or be in close contact with one another, including dancing, playing darts, video
21 games, or other outdoor games;

22 “(iii) Prohibit patrons from bringing their own alcoholic beverages;

1 “(iv) Have a menu in use containing a minimum of 3 prepared food
2 items available for purchase by patrons;

3 “(v) Require the purchase of one or more prepared food items per
4 table;

5 “(vi) Ensure that prepared food items offered for sale or served to
6 patrons are prepared on the licensed premises or off-premises at another licensed entity
7 that has been approved to sell and serve food by DC Health;

8 “(vii) Ensure that the proposed outdoor public or private space is
9 located in a commercial or mixed-use zone as defined in the District’s zoning regulations;

10 “(viii) Restrict its operations, excluding carry-out and delivery, and
11 the sale, service, and consumption of alcoholic beverages outdoors for on-premises
12 consumption to the hours between 6:00 a.m. and midnight, Sunday through Saturday;

13 “(ix) Not provide live music or entertainment, except for
14 background or recorded music played at a conversational level that is not heard in the
15 homes of District residents;

16 “(x) Not serve alcoholic beverages or food to standing patrons;

17 “(xi) Prohibit standing at an outdoor bar;

18 “(xii) Abide by the terms of their public space permit with regard
19 to the allowable placement of alcohol advertising, if any, in outdoor public space;

20 “(xiii) Implement a reservation system by telephone, online, or on-
21 site and consider keeping customer logs to facilitate contact tracing by DC Health;

22 “(xiv) Implement sanitization and disinfection protocols including
23 the provision of single use condiment packages; and

1 “(xv) Have its own clearly delineated outdoor space and not share
2 tables and chairs with another business.

3 “(C) Registration under subparagraph (A) of this paragraph shall be valid
4 for the entire twelve-month period of 2021 and in 2022 and 2023 from May 1 through
5 October 25. The Board may fine, suspend, or revoke an on-premises retailer’s license,
6 class C or D, or a manufacturer’s license, class A or B, with an on-site sales and
7 consumption permit, and shall revoke the registration to sell, serve, or permit the
8 consumption of beer, wine, or spirits on outdoor public or private space not listed on the
9 license, if the licensee fails to comply with subparagraph (A) or (B) of this paragraph.

10 “(D)(i) Notwithstanding subparagraph (B) of this paragraph, the Board
11 shall interpret settlement agreement language that restricts sidewalk cafés or summer
12 gardens as applying to only those outdoor spaces that are currently licensed by the Board
13 as sidewalk cafés or summer gardens.

14 “(ii) The Board shall not interpret settlement agreement language
15 that restricts or prohibits sidewalk cafés or summer gardens to apply to new or expanded
16 outdoor space, the use of which is now permitted under this paragraph.

17 “(iii) The Board shall not interpret settlement agreement language
18 that restricts or prohibits the operation of permanent outdoor space to prohibit the
19 temporary operation of sidewalk cafés or summer gardens.

20 “(iv) The Board shall require all on-premises retailer licenses, class
21 C or D, or manufacturer’s licenses, class A or B, with an on-site sales and consumption
22 permit, to delineate or mark currently licensed outdoor space from new or extended
23 outdoor space authorized by DDOT or the property owner.

1 “(v) With regard to existing outdoor public or private space, parties
2 to a settlement agreement shall be permitted to waive provisions of settlement agreements
3 that address currently licensed outdoor space for a period not to exceed 180 days.

4 “(E) For purposes of this paragraph, ground floor or street level sidewalk
5 cafes or summer gardens enclosed by awnings or tents having no more than one side shall
6 be considered outdoor space. Areas enclosed by retractable glass walls and other forms
7 of operable walls shall not be considered outdoor dining. Temporary unlicensed rooftops
8 and summer gardens not located on the ground floor or street level are not eligible for
9 registration under subparagraph (A) of this paragraph.

10 “(F) A manufacturer’s licensee, class A or B, with an on-site sales and
11 consumption permit or a retailer’s license, class C/T, D/T, C/N, D/N, C/X, or D/X, may
12 partner with a food vendor during its operating hours to satisfy the requirement of
13 subparagraph (B)(vi) of this paragraph; provided, that patrons are seated when ordering
14 and ordered food is delivered by the licensee or the food vendor to the seated patron.”.

15 (B) Subsection (b) is amended as follows:

16 (i) Paragraph (4) is repealed.

17 (ii) Paragraph (5) is amended to read as follows:

18 “(5)(A) Notwithstanding any other provision of this subchapter, the holder of
19 a class CR retailer’s license shall be authorized to permit a patron to remove one partially
20 consumed bottle or other container of wine or spirits for off-premises consumption.

21 “(B) A partially consumed bottle or other container of wine or spirits that
22 is to be removed from the premises must be securely resealed by the licensee or its
23 employee before removal from the premises.

1 “(C) The partially consumed bottle or container shall be placed in a bag or
2 other closed container that is secured in such a manner that it is visibly apparent if the
3 closed container has been subsequently opened or tampered with, and a dated receipt for
4 the bottle or container of wine or spirits shall be provided by the licensee and attached to
5 the closed container.

6 “(G) A licensee that registers with the Board under subparagraph (A) of
7 this paragraph shall not be required to satisfy the notice or posting requirements set forth
8 in §§ 25-421 and 25-422.”.

9
10 (C) Subsection (c)(4) is repealed.

11 (D) Subsection (e)(7) is amended in its entirety to read as follows:

12 “(e)(7)(A) Notwithstanding any other provision of this subsection, a retailer class
13 CH license under this section is authorized to permit a patron to remove one partially
14 consumed bottle or container of wine or spirits for off-premises consumption.

15 “(B) A partially consumed bottle or other container of wine or spirits that
16 is to be removed from the premises shall be securely resealed by the licensee or its
17 employee, before removal from the premises.

18 “(C) The partially consumed bottle or other container shall be placed in a
19 bag or other closed container that is secured in such a manner that is visibly apparent if
20 the closed container has been subsequently opened or that a person has tampered with the
21 closed container.

22 “(D) The licensee or its employee shall provide a dated receipt for the
23 bottle or other container of wine or spirits, which shall be attached to the closed
24 container.”.

1 (E) Subsection (i) is amended as follows:

2 (i) Subparagraph (5) is replaced in its entirety to read as follows:

3 “(5) Wholesalers and off-premises retailer’s licensees, class A or AI, may sell
4 alcoholic beverages to caterers licensed under this subsection regardless of the number of
5 persons attending the catered event.

6 (ii) A new subparagraph (6) is added to read as follows:

7 “(6) A caterer shall be prohibited from holding a catered event under its
8 license that takes place on a public street that has been closed by the District
9 government.”

10 (F) A new subsection (I) is added to read as follows:

11 “(I)(1) A commercial lifestyle center license may be issued to a commercial
12 owners’ association governing a commercial lifestyle center.

13 “(2) The commercial lifestyle center license shall permit a licensed restaurant,
14 tavern, nightclub, hotel, or multipurpose facility, including a private club, that is a tenant
15 of the commercial lifestyle center to sell beer, wine, or spirits for consumption on the
16 portion of the licensed premises designated by the Board, including plazas, seating areas,
17 concourses, walkways, and other such thoroughfares.

18 “(3) A holder of a commercial lifestyle center license may allow patrons to
19 consume beer, wine, or spirits purchased from a licensed restaurant, tavern, nightclub,
20 hotel, or multipurpose facility, including a private club, that is a tenant of the commercial
21 lifestyle center on the premises of any tenant of the commercial lifestyle center that is not
22 a retail licensee of the Board upon approval of such tenant, but excluding on the premises
23 of a parking lot.

1 “(4) Holders of a commercial lifestyle center license shall:

2 “(A) Be located in a commercial or mixed-use zone area as defined by the
3 Board of Zoning Adjustment;

4 “(B) Prohibit persons from consuming alcoholic beverages within the
5 commercial lifestyle center that were not purchased from a restaurant, tavern, nightclub,
6 hotel, or multipurpose facility, including a private club, that is a tenant of the commercial
7 lifestyle center;

8 “(C) Require restaurants, taverns, nightclubs, hotels, or multipurpose
9 facilities, including private clubs, that are tenants of the commercial lifestyle center to
10 place the beer, wine, or spirits in plastic or non-glass containers bearing the licensees’
11 trade name, logo or other labeling unique to the licensee;

12 “(D) Post appropriate signage identifying the boundaries of the licensed
13 premises;

14 “(E) Have adequate security for the licensed premises to ensure
15 compliance with this title and Title 23 of the District of Columbia Municipal Regulations;
16 and

17 “(F) Have adequate trash receptacles on the licensed premises and ensure
18 the licensed premises is free of trash and other debris that may attract rats and other
19 vermin.

20 “(5) There shall be 2 classes of commercial lifestyle center licenses:

21 “(A) Class C/L (spirits, beer, and wine); and

22 “(B) Class D/L (beer and wine).”.

23 (5) Section 25-113a is amended as follows:

1 (A) Subsection (b)(2) is amended by striking the phrase “8:00 a.m. and
2 12:00 a.m.” and inserting the phrase “6:00 a.m. to 1:00 a.m.” in its place.

3 (B) Subsection (c) is amended by striking the phrase “8:00 a.m. and 12:00
4 a.m.” and inserting the phrase “6:00 a.m. and 1:00 a.m.” in its place.

5 (C) A new subsection (c-1) is added to read as follows:

6 “(c-1) Notwithstanding subsection (c) of this section, an on-premises retailer’s
7 license, class C or D, or a manufacturer’s license, class A, B or C, with an on-site sales
8 and consumption permit may conduct business on ground floor or street level outdoor
9 public or private space, including sale, service, and consumption of alcoholic beverages;
10 provided, that the licensee complies with § 25-113(a)(6).”.

11 (6) Section 25-117 is amended by striking the phrase “beer pub endorsement”
12 wherever it appears and inserting the phrase “brew pub endorsement” in its place.

13 (7) Section 25-118 is amended as follows:

14 (A) Subsection (c) is amended by striking the phrase “a licensee shall”
15 and inserting the phrase “a licensee that holds a tasting permit shall” in its place.

16 (B) Subsection (e) is amended by striking the phrase “8:00 a.m. and 12:00
17 a.m.” and inserting the phrase “6:00 a.m. and 1:00 a.m.” in its place.

18 (C) Subsection (f)(1) is amended by striking the phrase “8:00 a.m. and
19 12:00 a.m.” and inserting the phrase “6:00 a.m. and 1:00 a.m.” in its place.

20 (D) Subsection (g)(1) is amended in its entirety to read as follows:

21 “(g)(1) The Board may issue a tasting permit to a private collector to conduct
22 tastings closed to the public between the hours of 6:00 a.m. and 1:00 a.m., 7 days a
23 week.”.

1 (8) Section 25-120(h) is amended by striking the phrase “proof of
2 certification to the Board on a form supplied by a Board-approved training provider” and
3 inserting the phrase “to the Board a copy of the certificate received from the Board-
4 approved training provider” in its place.

5 (9) Section 25-125(d)(2) is amended by striking the phrase “7:00 a.m. to
6 12:00 a.m.” and inserting the phrase “6:00 a.m. to 1:00 a.m.” in its place.

7 (10) A new section 25-130 is added to read as follows:

8 “25-130. Third-party Alcohol Delivery License.

9 “(a) A third-party alcohol delivery license shall be required for a third party to
10 deliver alcoholic beverages on behalf of the holder of an off-premises retailer’s license,
11 an on-premises retailer’s license, or a manufacturer’s license.

12 “(b) An off-premises retailer, on-premises retailer, or a manufacturer licensed
13 under this title may utilize the services of a third-party alcohol delivery licensee by means
14 of the telephone, Internet, mobile application, or other electronic means to facilitate the
15 ordering of alcoholic beverages.

16 “(c) No licensee shall deliver any alcoholic beverages pursuant to orders received
17 unless upon delivery the licensee verifies that the recipient is at least 21 years of age, by
18 checking his or her valid government-issued picture identification.

19 “(d) At the time of delivery, the licensee shall verify that the recipient of the
20 alcoholic beverage or beverages is not visibly intoxicated.

21 “(e) Alcoholic beverages are not to be delivered to an address on a university or
22 college campus, or any elementary or secondary school located in the District of
23 Columbia.

1 “(f) The third-party alcohol delivery license shall be valid for 3 years.

2 “(g) The third-party alcohol delivery licensee shall file quarterly statements with
3 the Board, which shall include the following:

4 “(1) The name and business address of the person who ships the alcoholic
5 beverages;

6 “(2) The name and address of the recipient of the alcoholic beverages; and

7 “(3) The total number of alcoholic beverages that were delivered during the
8 previous quarter.

9 “(h) The third-party alcohol delivery licensee shall maintain its books and records
10 on the licensed premises or at a Board-approved location for 3 years. The books and
11 records shall be made available to ABRA investigators during normal business hours.”.

12 (b) Section 25-205 is amended as follows:

13 (1) Subsection (a)(2) is amended to read as follows:

14 “(a)(2) The support for, and objections to, the granting of licenses.”.

15 (2) Subsection (b) is amended to read as follows:

16 “(b)(1) The Board shall maintain its records in such a manner that allows
17 disclosure to any person who has requested access to public records, except for those
18 records, or portions of records, that are protected from disclosure by the exemptions
19 listed in the District of Columbia Freedom of Information Act (FOIA).

20 “(2) Requests to obtain copies of records maintained by the Board shall be
21 submitted in writing to ABRA’s FOIA Officer pursuant to FOIA requirements.

22 “(3) The FOIA Officer shall respond to a FOIA request with a grant or a
23 denial for access to records within 15 business days after the date of receipt. The 15-

1 business day limit may be extended up to an additional 10 business days for unusual
2 circumstances as defined by D.C. Official Code § 2-532(d).

3 (3) Subsection (c) is amended to read as follows:

4 “(c) Reasonable fees and costs may be imposed upon requesters pursuant to D.C.
5 Official Code § 2-532(b)-(b-1).”.

6 (4) Subsection (d) is amended to read as follows:

7 “(d) The Board shall provide to the Director and the Council annual reports
8 detailing the activities of the Board for the previous year regarding the following items:

9 “(1) Licenses, including the number of licenses outstanding; the number of
10 new alcohol licenses and permits renewed; the number of licenses suspended; and the
11 number of licenses revoked;

12 “(2) Enforcement, including the number of regulatory inspections performed
13 and the number of investigations conducted;

14 “(3) The workload of the Board, including the number of adjudicated cases
15 processed; the number of hearings conducted; and the number of show cause cases
16 pending;

17 “(4) Community notification efforts, including the number of ANC
18 notifications issued; the number of ANC meetings attended by Board members; and the
19 number of community meetings attended by Board members; and

20 “(5) Revenue generated by Board actions, including revenue generated by the
21 Board from permits and licenses and from fines.”.

22 (c) Chapter 3 is amended as follows:

23 (1) Section 25-303 is amended as follows:

1 (A) A subsection (a) is amended as follows:

2 (i) A new paragraph (2A) is added to read as follows:

3 “(2A) Notwithstanding paragraph (2), a licensee under an on-premises
4 retailer’s license, class CR, DR, CT or DT, may hold an interest in one off-premises
5 retailer’s license, class A, B, AI, or BI.”.

6 (ii) Paragraph (3) is amended by striking the phrase “hold an
7 interest in any other license” and inserting the phrase “hold an interest in any other
8 license, except that an off-premises retailer’s license, class A or B, may hold an interest
9 in one on-premises retailer’s license class CR, DR, CT or DT” in its place.

10 (iii) Paragraph (4) is amended in its entirety to read as follows:

11 “(4) No licensee under an off-premises retailer’s license, class AI or BI, shall
12 hold an interest in any other license, except that an off-premises retailer’s license, class
13 AI or BI may hold an interest in one on-premises retailer’s license, class CR, DR, CT or
14 DT.”

15 (iv) A new paragraph (5) is added to read as follows:

16 “(5) No licensee under an on-premises retailer’s license, off-premises
17 retailer’s license, or a manufacturer’s license shall hold a direct or indirect interest in a
18 third-party alcohol delivery license.”.

19 (B) Subsection (c-1) is amended by striking the phrase “class CR or DR”
20 and inserting the phrase “class CR, DR, CT, or DT” in its place.

21 (C) A new subsection (c-2) is added to read as follows:

22 “(c-2) Notwithstanding subsection (a) of this section, the holder of an off-
23 premises retailer’s license class A or B shall be permitted to apply for one 25% grocery

1 store class A retailer's license for a grocery store that is newly constructed with a
2 certificate of occupancy issued after January 1, 2021 that meets the requirements of § 25-
3 333(f) and is located in either Ward 7 or Ward 8. After 6 months of operation in either
4 Ward 7 or Ward 8, the holder of a 25% grocery store class A retailer's license shall be
5 permitted to apply for one additional 25% grocery store class A retailer's license for a
6 grocery store that is newly constructed with a certificate of occupancy issued after
7 January 1, 2021 that meets the requirements of § 25-333(f) at a location in Wards 1
8 through 6.”.

9 (2) Section 25-314(b) is amended by adding a new paragraph (12) to read as
10 follows:

11 “(12) The 400-foot restriction shall not apply to an establishment operating
12 under a 25% grocery store class A retailer's license.”.

13 (3) Section 25-331(e) is amended by striking the phrase “class AI” and
14 inserting the phrase “class AI, or 25% grocery store class A” in its place.

15 (4) Section 25-333 is amended as follows:

16 (A) A new subsection (c-2) is added to read as follows:

17 “(c-2) Notwithstanding subsection (a) of this section, the holder of an off-
18 premises retailer's license class A or B shall be permitted to apply for one 25% grocery
19 store class A retailer's license in either Ward 7 or 8. After 6 months of operation in
20 either Ward 7 or 8, the holder of a 25% grocery store class A retailer's license shall be
21 permitted to apply for one additional 25% grocery store class A retailer's license at a
22 location in Wards 1 through 6.”.

23 (B) A new subsection (f) is added to read as follows:

“(f) This section shall not prohibit the issuance of a 25% grocery store class A retailer’s license for the sale of alcoholic beverages if the applicant’s establishment is newly constructed with a certificate of occupancy issued after January 1, 2021 and will be located in either Ward 7 or 8, as defined in D.C. Official Code § 1-1041.03(a), and:

“(1) The primary business and purpose is the sale of at least 6 of the 7 following food categories:

“(A) Fresh fruits and vegetables;

“(B) Fresh and uncooked meats, poultry and seafood;

“(C) Dairy products;

“(D) Canned foods;

“(E) Frozen foods;

“(F) Dry groceries and baked goods; and

“(G) Non-alcoholic beverages.

“(2) A minimum of 8,000 square feet of the retail establishment’s selling area is dedicated to the sale of at least 6 of the 7 food item categories listed in paragraph (1) in this subsection, and the sale of alcoholic beverages constitutes no more than 25% of the total volume of gross receipts on an annual basis;

“(3) The establishment is not located in a residential-use district as defined in the zoning regulations and shown in the official atlases of the Zoning Commission for the District or, if located within the Southeast Federal Center, in the SEFC-1; and

“(4) The establishment files with the Board within 60 days after the end of each year, a statement of expenditures and receipts containing:

1 “(A) The total amount of receipts for the sale of alcoholic beverages,
2 indicating the:

3 “(i) Amount received for the sale of alcoholic beverages;

4 “(ii) Amount received for the sale of food and items other than
5 alcoholic beverages; and

6 “(iii) Percentage of the total amount of receipts represented by the
7 amounts specified in sub-subparagraphs (i) and (ii).

8 “(B) A statement indicating the method used to compute the amounts and
9 percentages; and

10 “(C) An affidavit, executed by the individual licensee, partner of an
11 applicant partnership, or the appropriate officer of an applicant corporation, partnership,
12 or limited liability company, attesting to the truth of the annual statement.”.

13 (C) Section 25-339(a) is amended to read as follows:

14 “(a) The number of nightclub license holders, class C or D, within the
15 Georgetown Historic District shall not exceed zero. No existing nightclub license located
16 outside of the Georgetown Historic District shall be transferred to a location within the
17 Georgetown Historic District.”.

18 (D) Section 25-342 is amended as follows:

19 (i) A new subsection (b-1) is added to read as follows:

20 “(b-1) Notwithstanding subsection (b) of this section, the holder of a retailer’s
21 license, class B, that meets the definition of a full-service grocery store as defined in §
22 25-101(22A), or a 25% grocery store retailer’s license, class A, as defined in § 25-333(f),
23 in Ward 7 shall be allowed to divide a manufacturer’s package of more than one

1 container of beer, malt liquor, or ale to sell an individual container of the package even if
2 the individual container is 70 ounces or less.”.

3 (ii) A new subsection (c-1) is added to read as follows:

4 “(c-1) Notwithstanding subsection (c) of this section, a licensee under an retailer’s
5 license, class B, that meets the definition of a full-service grocery store as defined in §
6 25-101(22A), or a 25% grocery store retailer’s license, class A, as defined in § 25-333(f),
7 in Ward 7 shall be allowed to sell, give, offer, expose for sale, or deliver an individual
8 container of beer, malt liquor, or ale limited to 70 ounces or less.”.

9 (E) Section 25-343 is amended as follows:

10 (i) A new subsection (b-1) is added to read as follows:

11 “(b-1) Notwithstanding subsection (b) of this section, the holder of a retailer’s
12 license, class B, that meets the definition of a full-service grocery store as defined in §
13 25-101(22A), or a 25% grocery store retailer’s license, class A, as defined in § 25-333(f),
14 in Ward 8 shall be allowed to divide a manufacturer’s package of more than one
15 container of beer, malt liquor, or ale to sell an individual container of the package that is
16 70 ounces or less.”.

17 (ii) A new subsection (c-1) is added to read as follows:

18 “(c-1) Notwithstanding subsection (c) of this section, the holder of a retailer’s
19 license, class B, that meets the definition of a full-service grocery store as defined in §
20 25-101(22A), or a 25% grocery store retailer’s license, class A, as defined in § 25-333(f),
21 in Ward 8 shall be allowed to sell, give, offer, expose for sale, or deliver an individual
22 container of beer, malt liquor, or ale with a capacity of 70 ounces or less.”.

23 (F) Section 25-374 is amended as follows:

1 (i) Subsections (e) through (g) are repealed.

2 (ii) A new subsection (h) is added to read as follows:

3 “(h)(1) Within 2 years of the effective date of this act, a class CN retailer’s license with a
4 nude dancing endorsement under § 25-371(b) whose lease within the Buzzard Point
5 Section of Ward 6 expired or otherwise became ineffective within 24 months prior to the
6 effective date of the act shall be permitted to transfer its license to a new location;
7 provided that, the applicant satisfies the requirements set forth in §§ 25-314, 25-317, 25-421 and
8 25-422.
9

10 “(2) Notwithstanding any other provision of this section, an application filed
11 pursuant to this subsection shall permit the applicant to transfer its license and
12 endorsement to any location in the Central Business District, or zoned D-2, D-3, D-4, D5,
13 D-6, D-7, D-8, or PDR1-PDR7.
14

15 “(3) The transfer of a CN license with a nude dancing endorsement pursuant
16 to paragraph (1) of this subsection shall be approved within 2 years of the effective date
17 of this act.”
18

19 (d) Chapter 4 is amended as follows:

20 (1) Section 25-401 is amended as follows:

21 (A) Subsection (c) is amended by striking the phrase “shall sign a
22 notarized statement certifying” and inserting the phrase “shall sign a statement with an
23 original signature, which may be a signature by wet ink, an electronic signature, or a copy
24 thereof, certifying” in its place.
25

26 (2) Section 25-402 is amended as follows:

27 (A) Subsection (d) is repealed.

28 (B) A new subsection (e) is added to read as follows:
29

1 “(e)(1) An applicant for a new manufacturer’s, wholesaler’s, or retailer’s license
2 shall complete a mandatory licensee training offered at no cost by ABRA within 90
3 calendar days of being issued the license.

4 “(2) Failure to comply with paragraph (1) of this subsection may result in the
5 Board issuing a fine or suspending or revoking the license in accordance with chapter 8
6 of this title.”

7 (3) Section 25-403 is amended as follows:

8 (A) Subsection (a) is amended by striking the phrase “verify, by affidavit”
9 and inserting the phrase “self-certify” in its place.

10 (B) Subsection (e) is repealed.

11 (4) Section 25-421 is amended as follows:

12 (A) Subsection (a) is amended by striking the phrase “the Board under 25-
13 404, or for the transfer of a license to a new location, of a retailer’s license, the Board
14 shall give notice of the application to the following parties” and inserting the phrase “the
15 Board under § 25-404, for the transfer of a retailer’s license to a new location, or for a
16 unilateral petition to amend or terminate a settlement agreement, the Board shall give
17 notice, in accordance with subsection (e), of the application to the following parties” in
18 its place.

19 (B) Subsection (e) is amended in its entirety to read as follows:

20 “(e) The Board shall give notice to the ANC by electronic mail, on or before the
21 first day of the 45-day comment period, and addressed to the following persons:

22 “(1) The ANC office with a copy to each ANC member;

23 “(2) The ANC chairperson; and

1 “(3) The ANC member in whose single-member district the establishment is
2 or will be located.”.

3 (C) Subsection (h) is amended by striking the phrase “after 12:00 a.m.”
4 and inserting the phrase “after 1:00 a.m.” in its place.

5 (5) Section 25-443 is amended in its entirety to read as follows:

6 “§ 25-443. Subpoenas.

7 “(a) Any party may, by written motion, request that the Board subpoena the
8 appearance and testimony of witnesses or the production of documents.

9 “(1) A request for a subpoena shall state the relevancy and scope of the
10 testimony or documentary evidence sought, including, as to documentary evidence, the
11 identification of all documents requested and the facts to be proven by them in sufficient
12 detail to establish relevancy.

13 “(2) Any party to whom a subpoena is directed may, prior to the time
14 specified in the subpoena for compliance, request the Board to quash or modify the
15 subpoena.

16 “(3) Any motion to quash or modify the subpoena shall be accompanied by a
17 brief statement setting forth the reasons for the motion.

18 “(4) The Board may quash or modify the subpoena upon a showing of good
19 cause.

20 “(b) Subpoenas issued by the Board shall be served by any of the following
21 means:

22 “(1) By an officer of the Metropolitan Police Department;

23 “(2) By personal service on the party being subpoenaed;

1 (7) Chapter 7 is amended as follows:

2 (A) The table of contents is amended as follows:

3 (i) A new section designation 25-704 is added to read as follows:

4 “§ 25-704. Management Agreement”

5 (ii) The section designation for section 25-766 is amended to read as
6 follows:

7 “§ 25-766. Prohibited statements in advertisements.”

8 (iii) A new section designation 25-767 is added to read as follows:

9 “§ 25-767. Outdoor Common Seating Area.”

10 (B) A new section 25-704 is added to read as follows:

11 “§ 25-704. Management Agreements

12 “(a) A licensee or applicant who enters into a management agreement with a
13 third-party for the management of the licensed premises, shall provide the Board with a
14 copy of the agreement within 30 calendar days of execution.

15 “(b) Notice of cancellation or termination of a management agreement shall be
16 provided in writing to the Board within 30 calendar days of the cancellation or
17 termination.”

18 (C) Section 25-711(f) is amended in its entirety to read as follows:

19 “(f) While managing or working at a licensed establishment, the owner, Board-
20 approved manager, employees or agents of a retailer’s, manufacturer’s or wholesaler’s
21 licensee shall carry a valid identification document on his or her person while on duty,
22 including if he or she is outside of the licensed establishment or delivering alcoholic

1 beverages, and shall show the identification document upon request to an ABRA
2 investigator or a member of the Metropolitan Police Department.”.

3 (D) Section 25-721 is amended as follows:

4 (i) Subsection (a) is amended to read as follows:

5 “(a) A licensee under a wholesaler’s license shall sell and deliver alcoholic
6 beverages to other licensees only between the hours of 5:00 a.m. and 1:00 a.m., Monday
7 through Saturday.”

8 (ii) Subsection (a-1) is amended in its entirety to read as follows:

9 “(a-1) Notwithstanding subsection (a) of this section, a licensed wholesaler may
10 sell and deliver alcoholic beverages to District residents, or to customers for curbside
11 delivery, between the hours of 5:00 a.m. and 1:00 a.m., Monday through Sunday.”.

12 (iii) Subsection (b) is amended in its entirety to as follows:

13 “(b) In addition to the provisions in subsection (a) of this section, a licensed
14 wholesaler, class A or B, may deliver alcoholic beverages to other licensees between the
15 hours 5:00 a.m. and 1:00 a.m., on Sunday.”

16 (iv) Subsection (d) is amended by striking the phrase “and the homes
17 of District of Columbia residents” and inserting the phrase “and to District residents, or
18 provide to customers by curbside delivery,” in its place.

19 (E) Section 25-722 is amended as follows:

20 (i) Subsection (a) is amended by striking the phrase “alcoholic
21 beverages” and inserting the phrase “alcoholic beverages to District residents, or provide
22 to customers by curbside delivery,” in its place.

23 (ii) Subsection (b) is amended in its entirety to read as follows:

1 “(b) The Board may also permit a licensee under an off-premises retailer’s
2 license, class A or B, to sell or deliver alcoholic beverages to District residents, or
3 provide to customers by curbside delivery, between the hours of 6:00 a.m. and 1:00 a.m.
4 on Sundays subject to settlement agreements pursuant to § 25-446.”.

5 (F) Section 25-723 is amended as follows:

6 (i) Subsection (b) is amended as follows:

7 (I) Strike the phrase “and subsection (c), (d), and (g)” and
8 insert the phrase “and subsection (c) and (e)” in its place.

9 (II) Strike the phrase “on-premises retailer’s” and insert the
10 phrase “on-premises retailer’s license” in its place.

11 (III) Strike the word “consume” and insert the phrase
12 “permit the consumption of” in its place.

13 (IV) Strike the phrase “8:00 a.m.” wherever it appears and
14 insert the phrase “6:00 a.m.” in its place.

15 (ii) A new subsection (b-1) is added to read as follows:

16 “(b-1) Except as provided in § 25-724 and subsection (c) and (e) of this section,
17 the licensee under an on-premises retailer’s license or manufacturer’s license that holds
18 an on-site sales and consumption permit may deliver alcoholic beverages to the home of
19 District residents, or provide to customers for curbside delivery at any time between the
20 following hours:

21 “(1) 6:00 a.m. and 1:00 a.m., Monday through Friday, excluding District and
22 federal holidays; and

1 “(2) 6:00 a.m. and 1:00 a.m. on Saturday and Sunday, excluding District and
2 federal holidays.

3 (iii) A new subsection (b-2) is added to read as follows:

4 “(b-2) Notwithstanding subsection (b) of this section, a holder of a commercial
5 lifestyle center license may operate, and permit the sale, service, and consumption of
6 alcoholic beverages on the licensed premises between the hours of 7:00 a.m. and 11:00
7 p.m., Sunday through Thursday, and 7:00 a.m. and midnight, Friday and Saturday.”.

8 (iv) Subsection (c) is amended as follows:

9 (I) Paragraph (1) is amended by striking the word
10 “consume” and inserting the phrase “permit the consumption of” in its place.

11 (II) Paragraph (2) is amended by striking the word
12 “consume” and inserting the phrase “permit the consumption of” in its place.

13 (III) Paragraph (4) is amended by striking the phrase “and a
14 public safety plan” where it appears.

15 (v) Subsection (e) is amended as follows:

16 (I) Paragraph (1) is amended by striking the phrase
17 “manufacturer’s license” and inserting the phrase “manufacturer’s license holding an on-
18 site sales and consumption permit” in its place.

19 (II) Paragraph (1) is further amended by striking the word,
20 “consume” and inserting the phrase “permit the consumption of” in its place.

21 (III) Subparagraph (1)(A) is amended by striking the phrase
22 “and a public safety plan” where it appears.

1 (G) Section 25-725 is amended by striking the phrase “commercial or
2 manufacturing zone” and inserting the phrase “commercial, manufacturing, or mixed-
3 use zone” in its place.

4 (H) Section 25-733(b) is repealed.

5 (I) Section 25-751 is amended as follows:

6 (i) A new subsection (a-1) is added to read as follows:

7 “(a-1) Notwithstanding subsection (a) of this section, a retailer’s license, class A,
8 may sell and deliver fewer than 6 miniatures of wine or spirits if they are pre-packaged
9 with a bottle of wine or spirits in sizes of 750 milliliters or greater, including as part of a
10 gift set or other promotional packaging.

11 (ii) Subsection (c) is repealed.

12 (J) Section 25-766 is amended to read as follows:

13 “§ 25-766. Prohibited statements in advertisements and documents.”.

14 “Advertisements and written notices or other documents that are
15 displayed or provided to the public that contain false or misleading statements with
16 respect to any material fact shall be prohibited.”.

17 (K) A new section 25-767 is added to read as follows:

18 “§ 25-767. Outdoor common seating area.

19 “(a) An applicant for a commercial lifestyle center license may apply to the Board
20 to operate one or more outdoor common seating areas on private space to be utilized by
21 patrons purchasing food and alcoholic beverages from licensed on-premises retailers for
22 carry-out provided:

23 “(1) The outdoor common seating area is clearly defined and marked with

1 signage;

2 “(2) Alcoholic beverages consumed in the outdoor common seating area are
3 in plastic or non-glass containers of no more than 16 ounces;

4 “(3) Alcoholic beverages are labeled with the trade name, logo, or other
5 labeling unique to the licensee;

6 “(4) Patrons remain seated while consuming food and alcohol;

7 “(5) No bar is placed in the outdoor common seating area;

8 “(6) No food or alcoholic beverage service is provided to the common
9 seating area;

10 “(7) Open alcoholic beverages may not be taken from the common seating
11 area into a licensed establishment;

12 “(8) Only alcoholic beverages purchased from licensed establishments may
13 be brought into the common seating area; and

14 “(9) Any unfinished alcoholic beverage must be discarded prior or upon
15 leaving the licensed premises of the commercial lifestyle center.”.

16 (L) Section 25-781 is amended as follows:

17 (i) Subsection (a)(1) is amended by striking the semicolon and
18 entering the phrase “; or” in its place.

19 (ii) Subsection (a)(2) is amended by striking the phrase “; or” and
20 inserting a period in its place.

21 (iii) Subsection (a)(3) is repealed.

22 (iv) Subsection (b)(1) is amended by striking the semicolon and
23 entering the phrase “; or” in its place.

1 (v) Subsection (b)(2) is amended by striking the phrase “; or” and
2 inserting a period in its place.

3 (vi) Subsection (b)(3) is repealed.

4 (vii) Subsection (f)(3) is amended by striking the phrase “suspend the
5 licensee” and inserting the phrase “suspend the license” in its place.

6 (viii) A new paragraph (f-1) is added to read as follows:

7 “(f-1) The stayed suspension days imposed by the Board pursuant to subsection
8 (f) shall activate and be served by the licensee upon a finding by the Board that the
9 licensee has committed another primary tier violation within one year of the date that the
10 violation that resulted in the stayed suspension was adjudicated.”.

11 (ix) A new subsection (h) is added to read as follows:

12 “(h) It shall be an affirmative defense to a charge under this section that the
13 licensee or the licensee's employee was shown and inspected a fake or fraudulent
14 identification document of such quality that a reasonable person would believe that it was
15 valid, unless, at the time of inspection:

16 “(1) The identification was visibly damaged;

17 “(2) The identification lacked the physical materials or features of the valid
18 identification being imitated;

19 “(3) The photograph contained in the identification that was shown did not
20 match the bearer;

21 “(4) The identification is displayed past the printed expiration date; or

22 “(5) The licensee or their agent knew the person was under the age of 21;

23 (M) Section 25-783(e) is amended to read as follows:

1 “(e) It shall be an affirmative defense to a violation of subsection (a) of this
2 section that:

3 “(1) The person was at the time of the violation 21 years of age or older; or

4 “(2) The licensee or a licensee’s employee was shown and inspected a fake or
5 fraudulent identification document of such quality that a reasonable person would believe
6 that it was valid.”.

7 (N) Section 25-791(c-1)(3) is amended by striking the phrase “serving a
8 suspension” and inserting the phrase “serving a suspension or a nightclub licensee with a
9 nude dancing endorsement provided that the nightclub licensee pays its licensing and
10 license renewal fees” in its place.

11 (8) Chapter 8 is amended as follows:

12 (A) The table of contents is amended as follows:

13 (i) A new designation for Subchapter III is added to read as follows:

14 “Subchapter III. Licensee Use of Security.”.

15 (ii) The table of contents for new Subchapter III is amended by adding
16 a new section designation 25-836 to read as follows:

17 “25-836. Security plans and security cameras”.

18 (B) Section 25-822 is amended by adding a new paragraph (4) to read as
19 follows:

20 “(4) The licensee has been convicted of assaulting an ABRA investigator or a
21 member of the Metropolitan Police Department during the commission of an ABRA
22 investigation.”

23 (C) Section 25-823(a)(5) is amended to read as follows:

1 “(a)(5) The licensee interferes or fails to cooperate with an ABRA or
2 Metropolitan Police Department investigation by:
3 “(A) Refusing to allow an ABRA investigator, a designated agent of
4 ABRA, or a member of the Metropolitan Police Department to enter or inspect without
5 delay the licensed premises;
6 “(B) Refusing to allow the examination of the licensee’s books and
7 records of the business;
8 “(C) Providing false or misleading statements with the intention of
9 influencing, impeding or obstructing the investigation;
10 “(D) Destroying or concealing evidence; or
11 “(E) Failing to produce requested documents, records or videos no later
12 than 48 hours from the time of the request.”.
13 (D) Section 25-826(a) is amended by striking the phrase “safety of the
14 public” and inserting the phrase “safety of the public or that the licensee or its agent has
15 assaulted an ABRA investigator or a member of the Metropolitan Police Department
16 during the commission of an investigation” in its place.
17 (E) Section 25-830(a) is amended as follows:
18 (i) Strike the phrase “60 days period of review” wherever it appears
19 and insert the phrase “90-day period of review” in its place.
20 (ii) Strike the phrase “deem disapproved” and insert the phrase
21 “deemed approved” in its place.
22 (F) A new section 25-836 is added to read as follows:
23 “25-836. Security plans and security cameras

1 “(a) The following license holders shall be required to file and maintain a written
2 and compliant security plan with the Board:

3 “(1) Nightclubs; and

4 “(2) Any other license holder, where the Board in its discretion, requires the
5 submission of a written security plan by the license holder.

6 “(b) If a security plan is required in accordance with subsection (a), no license
7 shall be approved, issued, or renewed unless the applicant has a compliant security plan
8 on file with the Board.

9 “(c) In accordance with subsection (a)(2), the Board may require a licensee to file
10 a security plan by providing the licensee with written notice of the requirement. The
11 Board need not comply with the requirements of D.C. Official Code § 2-505 when the
12 Board exercises its authority pursuant to subsection (a)(2) and this subsection.

13 “(d) The Board may suspend the license of any licensee that fails to file or
14 maintain a compliant security plan within 15 days after receiving written notice from the
15 Board of the security plan requirement until the Board is satisfied that a compliant
16 security plan has been submitted.

17 “(e) A written security plan filed pursuant to this subsection shall include at least
18 the following elements:

19 “(1) A statement on the type of security training provided for, and completed
20 by, establishment personnel, including:

21 “(A) Conflict resolution;

22 “(B) Procedures for handling violent incidents, other emergencies, and
23 calling the Metropolitan Police Department; and

1 “(C) Procedures for crowd control and preventing overcrowding;
2 “(2) Procedures for permitting patrons to enter the establishment;
3 “(3) A description of how security personnel are stationed inside and in front
4 of the establishment;
5 “(4) The number and location of security cameras used by the establishment;
6 “(5) Procedures to prevent patrons from becoming intoxicated;
7 “(6) Procedures to ensure that only persons 21 years or older are served or
8 consume alcohol;
9 “(7) Procedures for maintaining an incident log; and
10 “(8) Procedures for preserving a crime scene.
11 “(f) A licensee may amend or replace an existing security plan on file with the
12 Board by filing a new security plan that is compliant with this section.
13 “(g) A licensee who is required by the Board pursuant to Board Order or required
14 by the terms of a security plan or a settlement agreement, or who voluntarily installs and
15 utilizes security cameras on the licensed premises, shall:
16 “(1) Ensure that the security cameras are operational, capable of recording and
17 actually recording while the establishment is in operation;
18 “(2) Maintain any video footage of a crime of violence or a crime involving a
19 gun for a minimum of 30 calendar days;
20 “(3) Make the video footage available within 48 hours upon the request of an
21 ABRA investigator or any member of the Metropolitan Police Department; and

1 “(4) Ensure that the establishment and security cameras comply with all
2 technological and operational standards, such as resolution, frame per record, storage,
3 retention, and image quality standards, that the Board may establish by regulation.

4 “(h) If the licensee knows or reasonably should have known that the cameras are
5 not operational and capable of recording, the licensee shall notify the Board within 10
6 calendar days of when the licensee knew or reasonably should have known that the
7 cameras are not operating and provide the Board with proof of corrective maintenance or
8 replacement.

9 “(i)(1) Security plans that have been amended or modified by the licensee after
10 initial submission to the Board must be filed with the Board within 10 calendar days of
11 the modified plan.

12 “(2) If the licensee has been previously issued a written warning about timely
13 compliance with paragraph (1) of this subsection, the failure to comply with paragraph
14 (1) of this subsection may result in the Board issuing a fine against the licensee, or
15 suspending or revoking the license in accordance with Chapter 8 of this title.

16 Sec. 3. Fiscal impact statement.

17 The Council adopts the fiscal impact in the committee report as the fiscal impact
18 statement required by section 4a of the General Legislative Procedures Act of 1975,
19 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

20 Sec. 4. Effective date.

21 This act shall take effect following approval by the Mayor (or in the event of veto
22 by the Mayor, action by the Council to override the veto), a 30-day period of
23 congressional review as provided in section 602(c)(1) of the District of Columbia Home

- 1 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
- 2 206.02(c)(1)), and publication in the District of Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

TO: Ronan Gulstone
Director
Office of Policy & Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: January 25, 2021

SUBJECT: Legal Sufficiency Review of the "Reopen Washington DC Alcoholic
Beverage Regulation Amendment Act of 2021"
(AE-21-5031)

This is to Certify that this Office has reviewed the above-referenced proposed bill and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

Brian K. Flowers

Brian K. Flowers

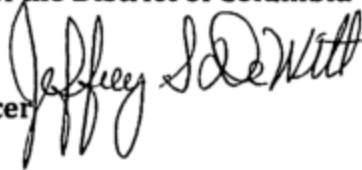
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: January 4, 2021

SUBJECT: Fiscal Impact Statement – Reopen Washington DC Alcoholic Beverage Regulation Amendment Act of 2021

REFERENCE: Draft Bill as provided to the Office of Revenue Analysis on November 4, 2020

Conclusion

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill.

Background

The Alcoholic Beverage Regulation Administration (ABRA) and the Alcoholic Beverage Control Board (Board) control alcoholic beverages and regulate, enforce, and adjudicate laws governing alcoholic beverages, and violations of those laws. The bill extends a handful of programs that have been implemented on an emergency basis, establishes new license categories, and amends several licensed establishment operational requirements and Board and ABRA administrative procedures.

The bill extends and amends two expansion programs the District implemented during the public health emergency. The first authorizes the Board and ABRA to register an on-premises retailer to offer carry-out and delivery from up to two additional locations¹ between the hours of 7:00 a.m. and 1:00 a.m. for up to 90 days unless 45-day notice of these activities is provided by the Board, allowing

¹ Coronavirus Support Congressional Review Emergency Amendment Act of 2020, enacted June 8, 2020 (D.C. Act 23-328; D.C. Official Code § 25-113(a)(3)(D)).

for longer operations. The bill imposes a \$100 registration fee to register for pop-up locations. The bill eliminates the ability of a retailer to offer indoor, on-premises alcohol consumption at the additional location. The bill authorizes the Board and ABRA to register these licensees for pop-up locations through December 31, 2022. The second program authorizes the Board and ABRA to register an on-premises retailer for expanded outdoor space, called streateries.² The bill also extends this authorization through calendar year 2023 and imposes a \$100 registration fee for each pop-up location. The bill extends streateries operations to all of 2021 but, in 2022 and 2023, restricts their operations to between May 1 and October 25th. The bill repeals a requirement that tables and waiting patrons be spaced at least six feet apart. Beyond these changes, for both pop-up locations and streateries, the bill maintains most of the provisions included in the emergency legislation authorizing the Board and ABRA to register licensees for these programs.

The bill establishes a new category of licensure for commercial lifestyle centers (lifestyle center) that can be issued to a commercial owner's association. A lifestyle center license permits the sale and consumption of beer, wine, or spirits in the lifestyle center's common areas as approved by the Board, including on the premises of tenants that are not Board licensed retailers. The bill authorizes the Board to approve outdoor seating areas where patrons can bring food and drink purchased for carry-out from the lifestyle center's licensed on-premises retailers. The bill permits the holder of lifestyle center license to operate between 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between 7:00 a.m. and midnight Friday and Saturday. The bill establishes annual lifestyle center license fees of \$1,000 and \$750 for class C and class D licenses, respectively.

The bill also creates a new license category for third-party alcohol delivery services that deliver alcoholic beverages on behalf of an off-premises retailer, on-premises retailer, or manufacturer. A third-party delivery service license is valid for three years and requires the delivery service to file quarterly reports with the Board that detail the businesses it delivered on behalf of, the delivery recipients, and the number of beverages delivered in the previous quarter. The bill requires a licensee to pay an annual fee of \$200. The bill also requires a third-party delivery service to verify that its recipients are 21 years of age and prohibits the service from delivering to anyone who appears intoxicated or is located at any school in the District, including a university campus. The bill prohibits the holder of any on-premises or off-premises retailer's license or manufacturer's license from holding an interest in a third-party delivery service.

The bill expands grocery store opportunities in Wards 7 and 8 by relaxing the restrictions on obtaining a 25 percent grocery store class A retailer's license for a location in Ward 7 or 8. A potential licensee must meet the bill's enumerated food offering, food physical space allocation, store location, and alcoholic beverage sales reporting requirements. The bill allows the holder of a class A or B off-premises retailer's license to also hold an interest in these grocery stores³ and exempts these stores from the 400-foot location restrictions to schools, Department of Parks and Recreation recreational

² Coronavirus Support Clarification Emergency Amendment Act of 2020, enacted July 7, 2020 (D.C. Act 23-332; D.C. Official Code § 25-113(a)(6)).

³ Title 25. Alcoholic Beverage Regulation, effective January 24, 1934 (48 Stat. 324; D.C. Official Code § 25-303).

areas,⁴ and another class A off-premises retail location.⁵ The bill also exempts a Ward 7 or 8 25 percent grocery store from the 250-license quota for off-premises retailer's licenses.⁶ The bill authorizes these stores to sell individual containers of beer, malt liquor, or ale where their sales are now prohibited in Wards 7 and 8 at off-premises retailers.⁷ The bill allows the holder of a 25 percent grocery store class A retailer's license in Ward 7 or 8 under this authorization to apply for one additional 25 percent grocery store class A retailer's license for a location in Ward 1 through 6.

The bill expands the operating hours for several license and endorsement categories. The bill authorizes manufacturer's licensee hosting on-site sales and consumption that has an entertainment endorsement to provide entertainment between the hours of 6:00 a.m. and 1:00 a.m., where it is currently restricted to between 8:00 a.m. and midnight. For this same license category, the bill makes the same 6:00 a.m. to 1:00 a.m. change for the licensed manufacturer's use of its outdoor sidewalk café or summer garden.⁸ The bill expands the hours that the holder of a tasting permit can offer tastings from 8:00 a.m. to midnight to 6:00 a.m. to 1:00 a.m. and imposes this requirement on a tasting permit holder that is a private collector.⁹ The bill expands the hours the holder of a distillery pub endorsement can sell spirits for off-premises consumption from 7:00 a.m. to 12:00 a.m. to 6:00 a.m. to 1:00 a.m.¹⁰ The bill standardizes the sales and delivery, including curbside pickup, operating hours for wholesalers to off-premises retailers and directly to customers as anytime between 5:00 a.m. and 1:00 a.m. each day of the week.¹¹ The bill authorizes an on-premises retailer or manufacturer with an on-site sales and consumption permit to deliver directly to customers or offer curbside pick-up between the hours of 6:00 a.m. and 1:00 a.m.

The bill amends or imposes operational requirements for Board license holders. The bill allows the holder of a restaurant or tavern license to also hold an interest in one off-premises retailer's license, class A, B, AI, or BI, and vice versa. The bill requires a new applicant for a manufacturer's, wholesaler's, or retailer's license to complete a no-cost ABRA offered licensee training course within 90 days of being issued the license and establishes proof of completion of the training course as the certificate received from the training provider. The bill requires a licensee to notify the Board within 30 days of the establishment or termination of a management agreement¹² for the management of the licensed premises. The bill repeals a wholesaler and manufacturer reporting requirement to other wholesalers and manufacturers.¹³ The bill authorizes off-premises retailers to sell fewer than six miniatures of wine or spirits if they are pre-packaged with a bottle of wine or spirits that is greater than 750 milliliters¹⁴ and to deliver alcoholic beverages through curbside delivery during authorized

⁴ D.C. Official Code § 25-314.

⁵ D.C. Official Code § 25-333.

⁶ D.C. Official Code § 25-331.

⁷ D.C. Official Code §§ 25-342 and 343.

⁸ D.C. Official Code § 25-113.01.

⁹ D.C. Official Code § 25-118.

¹⁰ D.C. Official Code § 25-125.

¹¹ D.C. Official Code § 25-721.

¹² The bill defines a management agreement as an operational agreement between a licensee and a third-party governing the management functions of the establishment for a fee.

¹³ D.C. Official Code § 25-733.

¹⁴ D.C. Official Code § 25-751.

sales and delivery hours. The bill redefines spirits as alcoholic beverages with an alcohol beverage by volume level of 21 percent where it is now 15 percent.¹⁵ The bill implements a \$100 fee for license holders to receive a sports wagering endorsement. The bill prohibits the issuance or transfer of a nightclub license, class C or D, in the Georgetown Historic District and removes a cap of six tavern licenses within the Georgetown Historic District.¹⁶

The bill eliminates a restriction that prohibits a caterer from purchasing alcoholic beverages from a licensed wholesaler for events over 100 patrons. The bill also prohibits a caterer from holding an event on a public street that has been closed by the District government.

The bill enhances provisions around security plans and cameras for, and located within, licensed establishments. If the Board requires a security plan as a condition of licensure, the bill gives the licensee 15 days to file a compliant security plan from the date the Board provides notice of its requirement or the Board can suspend the establishment's license. The bill gives a licensee ten days to file an amended security plan if it modifies the plan. The bill requires that security cameras meet prescribed standards and that footage is provide to ABRA or the Metropolitan Police Department (MPD) within 48 hours of a request, even if the cameras have been installed voluntarily.

The bill expands the ability of a restaurant or hotel licensee to permit a patron to take a partially consumed, resealed container of alcohol for off-premises consumption. Currently, patrons can carry-out one securely resealed, partially consumed bottle of wine. The bill expands this allowance to include a container or bottle of spirits and exempts a restaurant from any posting and notice requirements related to this allowance.

The bill amends allowances for some licensed retailers with a nude dancing endorsement. Generally, the bill exempts a nightclub licensee with a nude dancing endorsement from paying a license safekeeping fee while the establishment is closed if it has paid its licensing and license renewal fees.¹⁷ More specifically, the bill prohibits a class CN retailer with a nude dancing endorsement located in the Buzzard Point section of Ward 6 whose lease has expired or otherwise become ineffective from transferring the license to another location unless it is to one of the bill's designated zones in the Central Business District. The Board must approve a transfer request under these conditions within two years of the bill's effective date.

The bill updates or imposes new allowances and requirements around the Board's subpoena and other enforcement actions. The bill establishes who can request that the Board issue a subpoena, what information must be included in the request, and how the Board can quash or modified a subpoena. The bill updates how a subpoena can be delivered to include MPD, personal service, registered or certified mail to the recipient's last known address, or leaving it with the person in charge of the recipient's office if the recipient is a District Government employee. The bill maintains that the Board can appeal to the D.C. Superior Court to compel compliance with a subpoena. As it relates to enforcement matters, the bill requires all owners, managers, and employees of a licensed retailer, wholesaler, or manufacturer to carry identification while on duty and to make that

¹⁵ D.C. Official Code § 25-101.

¹⁶ D.C. Official Code § 25-339.

¹⁷ D.C. Official Code § 25-791.

identification available to any ABRA investigator or MPD officer upon request. The bill clarifies that false and misleading statements regarding material facts are prohibited in advertisements and other written notices or documents provided to the public. The bill authorizes the Board to summarily suspend an establishment's license if a licensee assaults an ABRA investigator or MPD officer during the commission of an ABRA investigation and requires the Board to revoke the license upon conviction for the assault. The bill also authorizes the Board to fine and suspend or revoke a license if the licensee interferes with an ABRA investigation by providing false or misleading statements, destroying or concealing evidence, or failing to produce a requested document. In cases of license suspensions for the sale of alcoholic beverages to prohibited persons, the bill allows the Board to reactivate stayed suspensions, if the licensee commits an additional violation within one year of adjudicating the violation that led to the original suspension.¹⁸ The bill also provides an affirmative defense for selling and serving alcohol to a prohibited person if the individual provided identification that a reasonable person would believe is valid.¹⁹

The bill amends and makes technical changes to several Board and ABRA administrative activities. The bill clarifies that requests for Board data must go through the FOIA officer and that requests should be responded to within 15 business days. The bill allows that the FOIA officer can charge reasonable fees for processing these requests. The bill clarifies the Board's recordkeeping responsibilities. The bill makes permanent recent changes that allow a license applicant to sign a statement attesting to the application's accuracy with an original signature, rather than a notarized statement, and allows a licensee to self-certify that a renewal application is accurate, rather than by affidavit.²⁰ The bill requires the Board to provide notice to the Council and any relevant Advisory Neighborhood Commissions (ANC) and citizen associations for any unilateral petition to amend or terminate a settlement agreement. The bill makes permanent that the Board must provide electronic notice to the relevant ANC and ANC Commissioners prior to the start of a 45-day public comment period for a new or renewal application, substantial change application, or transfer of a license. The bill also requires that Board notice is required when a manufacturer's license holder is requesting sales or service hours after 1:00 a.m., rather than the current 12:00 a.m.²¹

The bill extends the Council review period for rulemakings that amend the schedule of civil penalties from 60 to 90 days and allows them to be deemed approved if Council does not actively approve or disapprove them within 90 days. These rulemakings are currently deemed disapproved if Council does not act within the current 60-day window.²²

Financial Plan Impact

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill extends several temporary programs that gave licensed retailers more flexibility during the public health emergency and gives licensed retailers more opportunities to sell regulated beverages through expanded sales and consumption operating hours, new licensing

¹⁸ D.C. Official Code § 25-781.

¹⁹ D.C. Official Code § 25-783.

²⁰ D.C. Official Code § 25-403.

²¹ D.C. Official Code § 25-421.

²² D.C. Official Code § 25-830.

opportunities, and other operational changes. The Board and the Council have given establishments increased flexibility in recent months and the bill's changes are consistent with this increased flexibility. For this reason, tax revenues from sales of alcoholic beverages under these changes are included in the fiscal year 2021 through fiscal year 2024 revenue estimates for alcoholic beverage excise and sales taxes.

The permanent extensions for streateries and pop-ups impose a new \$100 license fee that was not charged under the temporary programs. Approximately 534 licensed establishments²³ have registered for streateries and approximately 33 establishments²⁴ have registered for a pop-up location. If these establishments continue with streatory and pop-up operations in 2021 through 2023, ABRA would collect an additional \$56,700 annually through fiscal year 2023 in its special purpose revenue fund (fund). The bill does not authorize streateries and pop-up operations beyond calendar year 2023. The bill establishes a new \$100 license endorsement for sports wagering. Currently, 27 Board-licensed establishments are approved for sports wagering. If these establishments maintain their endorsements, ABRA will generate at least \$2,700 annually for deposit into the fund. The bill also establishes new licenses for third-party delivery services at \$200 and a commercial lifestyle centers at \$750 or \$1,000. These licenses are not currently available, and the number of potential applicants is unknown. These revenues will also be deposited into the fund. The Mayor will need to request budget authority to spend any new revenues deposited into the fund.

The bill also imposes several new requirements on the Board and ABRA, including enhanced security plan reviews, new Board subpoena powers, Board FOIA and notice requirements, a no-cost ABRA approved training program for certain new license applicants, and enforcement of the bill's licensed establishment operational changes. The Board and ABRA can absorb any costs associated with these activities within its existing budgeted resources.

²³ As of December 4, 2020.

²⁴ As of November 19, 2020.